

Montana State Legislature

2009 Session

Exhibit 3

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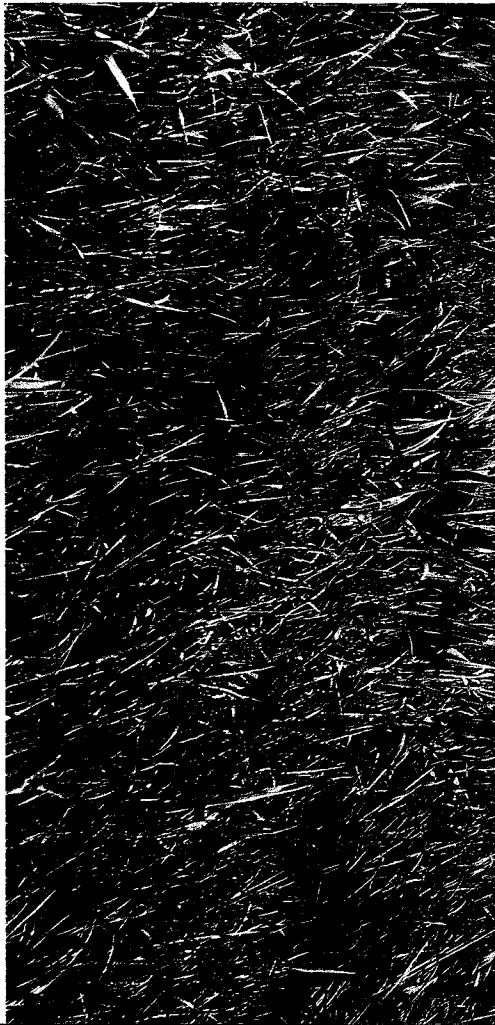
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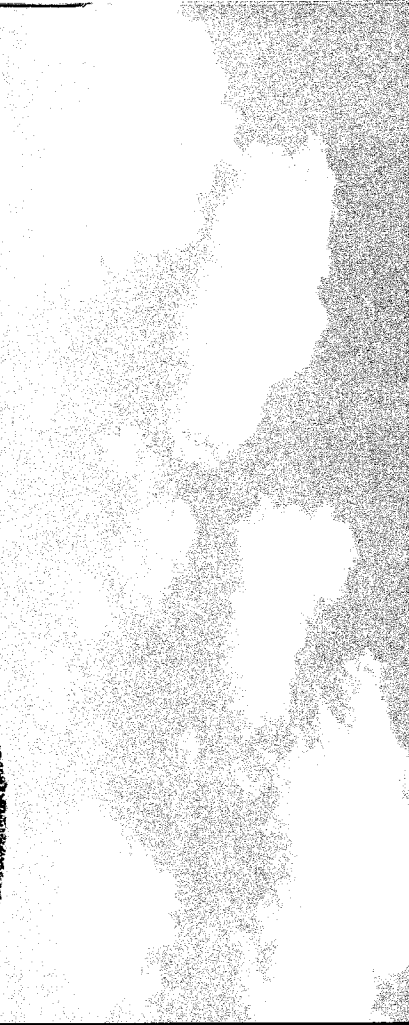
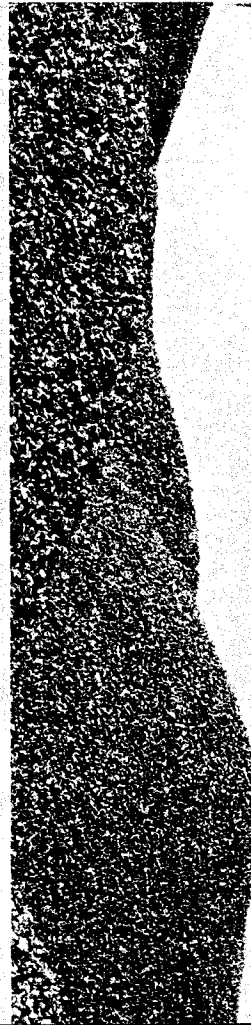
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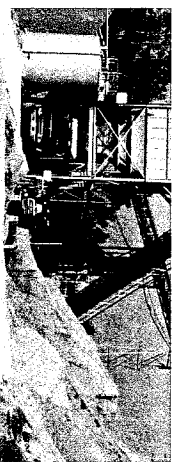
SAND & GRAVEL OPERATIONS IN MONTANA
The most critical building resource of our growing society.



SAND & GRAVEL 101

Communities throughout Montana are grappling with the emotional issue of where to site sand and gravel operations and the associated facilities that process asphalt and concrete. Until recently, gravel was simply a ubiquitous commodity that most people didn't give much thought.

But many Montana communities have experienced significant, rapid growth, resulting in consumption of massive quantities of sand and gravel. And because they are finite resources, there is a pressing need for additional sources of these critical building materials.



Gravel is the foundation

Used for nearly every road and building in the world, aggregate—sand, gravel and crushed stone—is a critical component of our society and economy. With over 16 billion tons of aggregate produced worldwide every year, it represents a major component of mining today. Gravel is the foundation of growth and development,

and a crucial resource in nearly all construction. Gravel is the base material under roads, buildings and parking lots and the main ingredient in asphalt and concrete. Sand and gravel operations provide the material for infrastructure construction. To build and sustain a society, we simply must have sand and gravel resources.

Everyday life in Montana depends on infrastructure constructed with gravel. It's in the roads, bridges and highways we drive on; sidewalks we walk on; houses and subdivisions where we live; and buildings where we work, shop and eat. The need for gravel is paramount to construction and growth. Building and sustaining growth without a cost-effective means of obtaining this resource is not possible.

Where's it found?

Gravel, as an extracted resource, is simply not found everywhere. In general, gravel is typically found in river valleys where the water table is high, and in alluvial floodplains along streams and in glacial deposits. Like any important resource it must be extracted where it is found, not "somewhere else" where people wish it was. Montana is no different.

THE ISSUES

There are obvious opponents and proponents to sand and gravel operations. The intricacies of the issues are vast. Everything from zoning regulations, private property rights, reclamation standards, environmental impact assessments, growth policies, good neighbor practices, rising costs, sustainable development programs and others add to the complexity of the issue.

Meeting construction needs while addressing concerns about human relations in the community is the goal. Proper reclamation of gravel sites for future use is also paramount. A delicate balancing act must occur. Regulation measures should be undertaken with a clear understanding of real impacts to public health and safety.

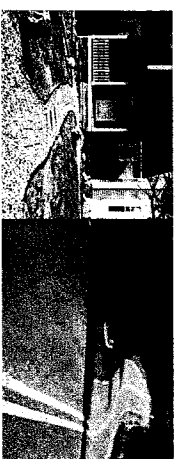
There, but not here

Given the choice, most people would like sand and gravel to come from somewhere other than near where they live. Understandably, they prefer to avoid the dust, noise, traffic and visual aspects associated with gravel operations. In various communities around the state, people have effectively mobilized opposition to proposed new gravel extraction sites, and

they have taken their case to county planning boards, elected commissioners and to the Montana Department of Environmental Quality. Their message is consistent: "We're not against gravel operations, we just don't want one here."

The need

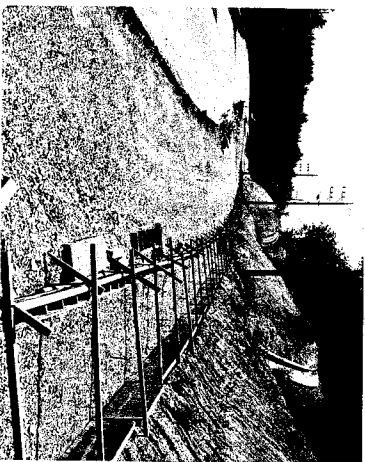
However, people expect and demand better roads, streets and highways. They want new freeway interchanges and ample parking. They want bike paths, swimming pools and skateboard parks. They want attractive subdivisions and affordable homes. All require huge volumes of gravel. If public officials deny gravel operations anywhere they are unwanted by neighbors, it stands to reason that gravel sources will no longer be located close to where the gravel, concrete and asphalt are actually needed. Therein is the crux of the issue.



Proximity importance

It is important that sand and gravel sources be located close to where construction activity occurs. Longer haul distances to transport asphalt, concrete and base gravel would result in dramatically higher prices to consumers/taxpayers. It translates into additional heavy truck traffic that would burn thousand of gallons of additional fuel, creating additional air pollution. It also results in unnecessary wear and tear on taxpayer-funded roads and creates traffic disturbances in already congested communities.

Gravel must be extracted from where the gravel is—not simply where people can agree it should come from. The closer sand and gravel operations are located to construction projects, the lower the associated costs, environmental impacts and traffic and safety issues.



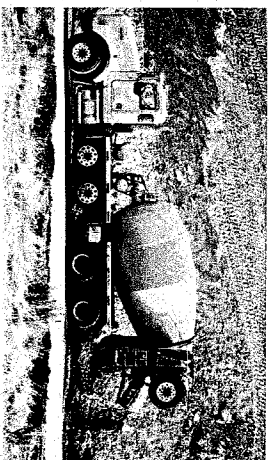
Financial impact

Affordable housing becomes more elusive, and tax-funded infrastructure becomes significantly more expensive the further gravel sources are from where construction occurs. The cost of local gravel in Montana is normally about \$4 to \$5 per cubic yard, while imported gravel in some parts of the U.S. can cost up to \$75 a yard. At that increase, you don't have to be an accountant to see how important it is for gravel operations to be located near the sites of construction.

The cost of gravel, asphalt and concrete increases with every additional mile it must be transported. As more fuel is consumed and the price of diesel fuel continues to rise, substantial increases in costs can be expected if gravel operations are pushed further and further away from the communities they serve.

Environmental impact

While opponents often allege gravel operations in populated areas are an environmental threat, the actual environmental impacts are more pronounced when we don't use the natural resources where they are found.



The further hauling distances are, the more diesel fuel is consumed, and the more air pollution is created. Trucks and tires wear out faster, adding to the "carbon footprint" in the manufacture of replacements.

In addition, greater hauling distances lead to faster deterioration of taxpayer-funded public roads and bridges, which must be repaired/replaced more often, consuming even more resources. With the concerns over climate change, haul distance should be considered when weighing the politics, community impact and environmental impact of locating new gravel operations.

Opponents also cite water quality issues which, in fact, are rare. The Montana Department of Environmental Quality performs thorough environmental reviews prior to issuing permits for gravel operations, assuring citizens of both the quality and quantity of water.

BEING A GOOD NEIGHBOR

Balanced solutions are needed. The Montana Contractors' Association, which represents most of the larger gravel producers in the state, has developed a Good Neighbor Policy that addresses the concerns most often expressed by local residents. We intend to raise the bar of performance by encouraging gravel operators to implement these policies and incorporate them into their legal permits.

Our policy

We're proud that our member companies have been partners in building better communities throughout the state by adopting a Good Neighbor Policy that deals with:

- Dust
- Noise
- Visual impacts
- Traffic safety
- Hours of operation
- Weed management
- Notices to neighboring residents

To view MCA's entire Good Neighbor Policy, visit www.montanagravel.org

Permitting and enforcement

Contrary to popular belief, Montana provides tight permitting procedures and regulatory oversight for sand and gravel operations at both state and local levels.

- Montana open cut mining laws regulate sand and gravel operations (MCA Title 82-Ch 4) and require guidelines for reclamation procedures (ARM Title 17-Ch 24).

- Gravel operations are subject to the Montana Environmental Policy Act, which requires the Montana Department of Environmental Quality to conduct environmental assessments on every proposed operation. The MDEQ also issues permits for all gravel

operations which specify "conditions" under which they operate.

(www.deq.state.mt.us/open-cut/index.asp)

- Local governments approve and oversee zoning and land use regulations that often result in additional "conditions" on gravel operations.

Reclaiming the land

Perhaps one of the most important aspects of sand and gravel operations is the reclamation of the land.

While some sand and gravel operations are long-term commercial sites, others are more project-specific and of short duration. Having an appropriate reclamation plan for either type is essential.

Montana law requires operators to reclaim gravel mine sites within one year after mining activities have ceased. In addition, owners and operators are required to provide and maintain financial assurance in the form of a surety bond, to ensure that the reclamation activities will be accomplished after mining stops.

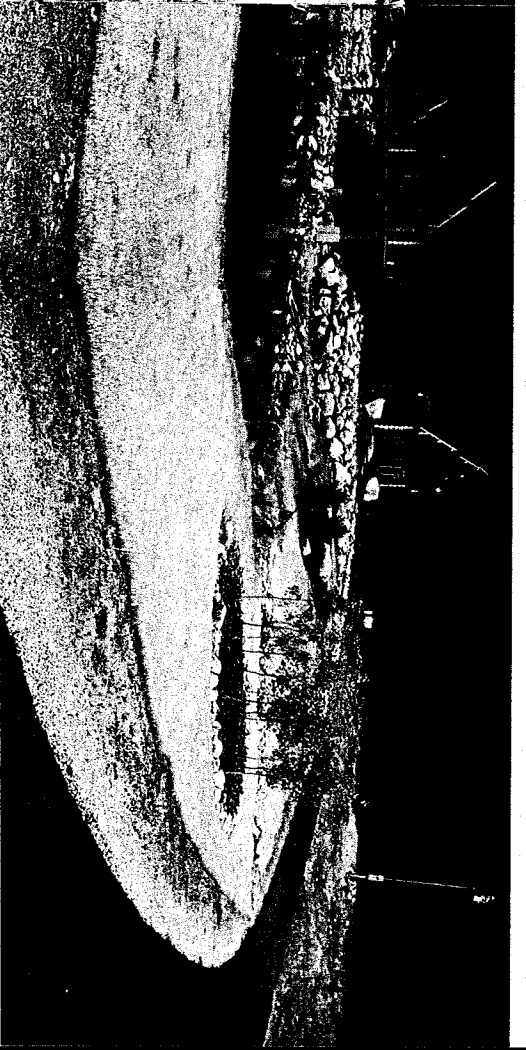
In Montana, sand and gravel operations are increasingly viewed as a temporary use to be followed by another land use that is compatible with the surrounding landscape. There are a variety of appropriate end uses for sand and gravel operations ranging from agricultural and forestry uses, fish and wildlife habitat, recreation areas, urban building sites to industrial

development. In some cases, reclamation has been so successful that the sites are no longer recognizable as former gravel operations. Other sites can be found where unassisted, natural revegetation has successfully occurred. Most permit applicants provide a reclamation plan and some former gravel sites have been turned into community assets; Beavertail State Park on the Clark Fork River is one example.

Fisher Site near Sula, Montana before reclamation, 1996.



Fisher Site after reclamation, 2001.





Aerial photo of Stoner Site in Whitefish, Montana during operation, 2004.

OUR COMMITMENT

The Montana Contractors' Association was created 70 years ago to represent the collective interests of construction companies. As the construction profession has grown more diverse, more complex and more vulnerable to political decisions, the MCA has been stretched to meet the multitude of expectations and demands.

Because the availability and cost of sand and gravel resources in Montana is pivotal to all construction in the state, we are committed to finding reasonable, practical legislative and regulatory approaches to permitting gravel operations that protect public health, safety and the environment.



Early phase of Stoner Site reclamation. Future site of a new Whitefish City Park

The Montana Contractors' Association stands ready to assist.

As a state, Montana must find a realistic balance between economic growth and environmental protection. We cannot simply say "no" every time there is opposition to a legitimate project. We need to work together to meet the needs of our growing communities.

CALL TO ACTION

Construction projects around Montana consume about 18 million cubic yards of gravel annually (more than one large truckload for every resident!), which must be extracted and processed in communities throughout the state. Gravel is the foundation of growth and

development, and a crucial resource in all construction. Building and sustaining growth without cost-effective means of obtaining this resource is extremely difficult.

The Montana Contractor's Association and its members understand that there are many public concerns about sand and gravel operations, the permitting process, how they are monitored and reclamation of sites. We embrace the need to "raise the bar" of performance. We stand ready, as an organization representing Montana's gravel producers and construction professionals, to make positive changes that move Montana in a better direction.

**Knowledge is power.
Understanding the
issues surrounding sand
and gravel operations
in Montana is important
to our cause and yours.
We implore you to know
the facts, understand
the need and get involved.**

**To learn more, please
visit our web site:
www.montanagravel.org
or call (406) 442-4162**

WHAT WE PROPOSE

Complicated issues need thorough review. Steps in the legislature and policies at the local level to address the issues surrounding gravel operations in Montana are vital. The Montana Contractors' Association and represented members propose some solutions to this important concern:

Adequate Funding for the MDEQ

In order to meet the growing needs for permitting of sand and gravel operations, the Montana Department of Environmental Quality needs adequate funding to perform environmental analysis and enforcement of on-site inspections. MCA also supports time tables for processing permit applications that allow for adequate analysis and discussion.

Adequate Notice to the Public

Adequate notice of proposed sand and gravel operations will allow local government and the public to comment on proposed sites and discuss the issues. Our Good Neighbor policies promote this, and we support laws that require it.

Appropriate Regulation

The State DEQ and local governments need clear lines of authority for regulation regarding land use. The rights and authority to impose conditions on and restrict gravel operations need to be clearly defined. Currently, the State DEQ has jurisdiction over environmental quality, permitting processes and compliance oversight. Local governments have jurisdiction over zoning and land use planning, and can place additional restrictions on operations. It is imperative that these roles be clear and not in conflict or duplicative.

Future Zoning Authority

Local government should have the authority for land use zoning and should have the right to zone appropriate locations for sand and gravel operations, now and in the future. In addition, landowners should have reasonable rights to protect their future right to mine and process gravel. Full disclosure of zoning would alert neighbors, potential buyers and residents that the land is zoned to allow for sand and gravel operations. MCA urges local governments to assist landowners in protecting their land rights and take a proactive approach to land use planning.

Balance of Property Rights

Landowners have rights to extract the value of resources on their property. Adjacent landowners also have rights to the peaceful enjoyment of their property. Balancing property rights of both is a constant challenge and the MCA works diligently to assist decision makers in developing appropriate policies.

